

CITY OF FRISCO PERSONNEL POLICIES
SECTION: ACCOMMODATIONS

Subject: AMERICANS WITH DISABILITIES ACT POLICY

Effective Date: 12/7/2004

Approved by: Ord. 14-09-51

Revision Date: 4/06/2021

Revision Approved by: 2021-04-31

I. STATEMENT OF PURPOSE:

It is the policy of the City of Frisco to afford equal employment opportunity to all individuals regardless of race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), age, national origin (including citizenship), veteran status, disability, and genetic information as designated by all relevant laws and regulations. This policy outlines the City's overall policy with regard to the Americans with Disabilities Act Amendment Act of 2008 (ADA) with particular emphasis on Title I and Title V of the Act which refer to protection against discrimination on the basis of disability (Title I) and protection from retaliation against anyone for exercising their rights under the ADA. (Title V).

II. ELIGIBILITY:

This policy applies to all job applicants and employees of the City of Frisco who fall within the protected class definition of the ADA, as a "qualified individual with a disability," for the position they currently hold or are seeking to fill.

III. DEFINITIONS:

- A. Disability - Means having a physical or mental impairment that substantially limits one or more major life activities, having a record of such impairments; or being regarded as having such an impairment.**
- B. Essential Job Functions - Essential functions are the basic job duties that an employee must be able to perform, with or without reasonable accommodation(s). A function can be essential if: the position exists specifically to perform that function; there is a limited number of other employees available to perform the function or among whom the performance of the function cannot be distributed; and the degree of expertise or skill required to perform the function. The job description is also a consideration in determining the essential functions of the job.**
- C. Reasonable Accommodation – A reasonable accommodation is a change**

or an adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process, to perform essential job functions, or to enjoy the benefits and privileges of employment equal to those enjoyed by employees without disabilities. An accommodation is not reasonable if it imposes an undue hardship on the operation of the City.

- D. Person with Disabilities – means any person who has a disability as defined in "disability" above.
- E. Qualified Person with Disabilities – includes with respect to employment, a person with disabilities who, with reasonable accommodation, can perform the essential functions of the job in question; or who meets the essential eligibility requirements for receipt of a service provided by the City for employees.

IV. **PROCEDURES:**

- A. **Equal Employment Opportunity** - All of the equal employment opportunity principles outlined in the EQUAL EMPLOYMENT OPPORTUNITY (EEO) Policy will be considered part of, and will guide, the intentions of this policy.
- B. **Applicants** - The City will make every reasonable effort to ensure that facilities and hiring procedures are accessible to all persons who wish to make application to the City for employment. The City requests that all accommodation requests by applicants be made in writing prior to, at the time of application, or as soon as the applicant realizes the need for a reasonable accommodation, outlining: (1) the position being applied for; (2) the accommodation being requested; and (3) the suggested accommodation alternatives and tools necessary to complete the application process. In some cases, the City requires advance notice to provide many accommodations. All accommodation requests made by applicants who are otherwise qualified individuals will be referred to the Director of Human Resources for consideration. Reasonable accommodations will be provided as long as they do not place an undue burden on the City. The City cannot refuse to consider an applicant because he/she requires a reasonable accommodation to compete for or perform a job.
- C. **Current Employees** - The City will make every reasonable effort to ensure that facilities are accessible to all employees who are disabled. If a disabled employee needs an accommodation, the employee or his designee should contact the City's leave administrator listed in Appendix A and complete the required ADA medical assessment form which will provide the City with a written request outlining (1) the position currently held; (2) the accommodation being requested; and (3) suggested accommodations. All accommodation requests made by employees, who are otherwise qualified individuals, will be referred to Human Resources for consideration. Reasonable accommodations will be provided as long as they do not place an undue burden on the City.

- D. Response to Requests for Accommodation** – The determination of what accommodations are reasonable will be established through an interactive process between the City and an employee. All requests for accommodations will be answered within a reasonable amount of time of the request being made. The initial response to the request may not contain the final solution to the request but may require the employee to provide additional information for the City to make an informed and final determination. The City is not required to provide a reasonable accommodation without sufficient documentation.

Once sufficient documentation is provided, the interactive process shall include the following steps:

1. A review of the particular position/job involved and determine its purpose and its essential functions.
2. Consultation with the employee with the disability to find out their specific physical or mental impairments as they relate to the essential job functions. Identify the barriers to job performance and assess how the barriers could be overcome with an accommodation.
3. Select the accommodation, if available, that best meets the need of the employee, the department, and the City.
4. If there is a direct threat or significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced, the requested accommodation may not be granted.
5. The City has the ultimate discretion to choose between effective reasonable accommodations.

E. Appeals Process –

1. Following the initial decision from the City's leave administrator denying a request, an employee will have five (5) working days from the date of issuance of the denial to file an appeal with the City's leave administrator. An appeal must include any and all documentation the employee believes supports his/her appeal of the denial.
2. Following the appeal decision from the City's leave administrator, an employee has five working days from the date of issuance of the appeal decision to file an appeal with the Human Resources Director. The Human Resources Director shall consult with the employee within five (5) working days after the receipt of the appeal. The Human Resources Director shall obtain the facts and forward a recommendation to the City Manager or designee within five (5) working days after the consultation. The City Manager or designee shall have five (5) working days to consult with any parties involved and render a decision in writing to the employee. The decision of the City Manager shall be final and binding on the parties without further appeal.

- F. Medical Verification** - All information provided as a result of this process will be kept strictly confidential, to the extent permitted by law, and all records will be maintained in a separate medical file from the personnel file.
- G. No segregation** - Applicants or employees will not be segregated from the rest of the workforce based solely on their disability.
- H. Retaliation** - The City of Frisco abides by applicable ADA laws and regulations including, but not limited to, Title V that prohibits retaliation or coercion against individuals with disabilities. Retaliation occurs when a materially adverse action is taken against an applicant or employee engaging in “protected activity” by asserting rights protected by the Equal Employment Opportunity (EEO) laws. Generally, a protected activity is either participating in an EEO process or reasonably opposing conduct made unlawful by an EEO law. Participating in an EEO process includes filing an EEO complaint, serving as a witness, or participating in any other way in an EEO matter.
- I. ADA Coordinators** - Questions concerning general ADA policy, reasonable accommodations, and grievances by citizens or employees not resolved by the appropriate department shall be directed to one of the following ADA Coordinators or their designee for resolution:
- Assistant City Manager – Public Services
 - Director of Human Resources – employment-related matters.

The ADA Coordinator shall resolve the issue(s) or make recommendations to department heads, the City Manager, or the City Council, as appropriate.

Appendix A

The City of Frisco's Leave of Absence and ADAAA Administrator is:

The Hartford

P.O. Box 14285

Lexington, KY 40512-4285

Phone: 1-888-458-5541

Fax: 1-877-588-4817

www.thehartfordatwork.com